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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,359	05/17/2007	Masafumi Sadahira	2006_1391A	6739
52349	7590	12/21/2011	EXAMINER	
WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503			GARLAND, STEVEN R	
			ART UNIT	PAPER NUMBER
			2121	
			NOTIFICATION DATE	DELIVERY MODE
			12/21/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/590,359	SADAHIRA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	STEVEN GARLAND	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 3/8/10 and 2/5/10.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 14, 17-20 and 23-26 is/are pending in the application.
  - 5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 14, 17-20 and 23-26 is/are rejected.
- 8) Claim(s) \_\_\_\_\_ is/are objected to.
- 9) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/5/10 has been entered.
2. Claims 14,17-20, and 23-26 are pending. Claims 1-13, 15, 16, 21, and 22 have been cancelled.
3. Regarding the Nakayama et al. Japanese document 2004-356696, it appears that the inventors are different than those of the instant application since at least the inventor T Sadahira of the Japanese document is different than the inventor Masafumi Sadahira of the instant application and as such the reference qualifies as prior art under 35 U.S.C. 102 (a).
4. Remarks: regarding the claim language, functional and an intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Language that suggests or makes optional but does not require steps to be performed or limit a claim to a particular structure does not limit the scope of the claim or claim limitation. Note that all the independent claims 14, 20, 25 and 26 all use language such as "in the case it is judged" which does not actually require that the case

actually occur and as such it is optional. See MPEP sections 2106, 2111.04 and 2114.

It is suggested that the phrase “in the case where it is judged” be changed to – responsive to judging--.

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 25 and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

From the disclosure ( see page 30, lines 12-13 for example) it appears that the medium can be a non statutory transitory signal. It is suggested that the phrase --“non-transitory-- be inserted before “recording medium” to overcome this rejection.

7. As an aid to applicant(s) some of the more pertinent portions of the reference(s) relative to the claims are identified below, however additional portions of the reference(s) specifically identified should be consulted for greater details and/or context.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 14,17-20, and 23-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Nakayama et al. Japanese document 2004-356696 (with machine translation).

Nakayama et al. Japanese document 2004-356696 (with machine translation)

discloses determining if the network settings and apparatus setting have been performed for water heater control and sending information to the server when it is determined that the settings have been performed. (abstract, claim 1) Nakayama provides a server 104, controller 103, water heater 102, network setting unit 111, apparatus setting unit 110, setting status monitoring device 112 which has a memory (paragraph 0020,0021), status display 114, communication unit 105 in the controller and a communication unit 106 in the server. Nakayama also discloses that a recorded medium can be used (0015), different settings can be performed by different users,. See the abstract; figures; claims 1,5,6, numbered paragraphs 0001, 0004, 0008, 0009, 0013,0014, 0015-0027,0038 of the translation.

14. (Currently Amended) An apparatus control system (fig.1) comprising an apparatus (102) which requires a plurality of different settings, an apparatus controlling device (103) for controlling the apparatus, and a server (104) which is communicatively connected to the apparatus controlling device via a network, wherein

said apparatus controlling device (103) includes:

an apparatus setting section (110) for accepting an input by a first operator, and performing a setting, the setting being at least one of a setting on a connection between said apparatus and said apparatus controlling device, and a confirmation on an operation of said apparatus including a test run of said apparatus using said apparatus controlling device;

a network setting section (111) for accepting an input by a second operator different from the first operator, and performing a setting on a connection between said apparatus controlling device and said server;

a setting status monitoring section (112) for monitoring an apparatus setting status representing whether the setting by said apparatus setting section has been performed, and a network setting status representing whether the setting by said network setting section has been performed; and

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a setting status display section (114) for displaying the apparatus setting status and the network setting status detected by said setting status monitoring section; and

a setting status information transmitting section (105) for transmitting, to said server, information relating to the apparatus setting status and the network setting status monitored by said setting status monitoring section,

wherein said server includes a setting status information receiving section (106) for receiving the information relating to the apparatus setting status and the network setting status transmitted by said setting status information transmitting section,

said setting status monitoring section stores the information relating to the apparatus setting status and the network setting status (paragraph 0020,0021),

said setting status information transmitting section (112,0022) judges whether the setting by said network setting section has been performed, and in the case where it is judged that the setting by said network setting section has been performed, the setting status information transmitting section transmits, to the server, the information relating to the apparatus setting status and the network setting status stored in said setting status monitoring section, and

said setting status information transmitting section (112,0022) judges whether the setting by said apparatus setting section has been performed, and in the case where it is judged that the setting by said apparatus setting section has been performed, said setting status information transmitting section transmits, to said server, the information relating to the apparatus setting status and the network setting status stored in said setting status monitoring section.

Similar reasoning applies to the subcombination apparatus claim 20 and medium claims 25 and 26.

17. The apparatus control system according to claim 14,  
wherein

said setting status display section displays the apparatus setting status and the network setting status monitored by said setting status monitoring section when a power is supplied to said apparatus controlling device. (touch panel 114 only operates when power is supplied 0017) Similar comments apply to claim 23.

18. The apparatus control system according to claim 14,  
wherein

said setting status display section displays the apparatus setting status and the network setting status monitored by said setting status monitoring section after completion of at least one of the setting by said apparatus setting section and the setting by said network setting section. (112,0022) Similar comments apply to claim 24.

19. The apparatus control system according to claim 14,  
wherein

said apparatus setting section (110) performs the connection setting so that a control signal for controlling the apparatus is transmittable, and a response signal to be sent from said apparatus is receivable, and

said network setting section (111) performs the connection setting so that said server is identified on the network, and said apparatus controlling device is communicatively connected to said server.

10. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN GARLAND whose telephone number is (571)272-3741. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decay can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven R Garland  
Examiner  
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/ALBERT DECADY/  
Supervisory Patent Examiner, Art Unit 2121